



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Ameriko Maintenance Co.--Request for  
Reconsideration

**File:** B-236764.2

**Date:** November 7, 1989

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### DIGEST

Request for reconsideration is denied where the protester fails to point out any errors of fact or law or information not previously considered that warrant reversal or modification of prior dismissal.

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### DECISION

Ameriko Maintenance Co. requests reconsideration of our September 21, 1989, dismissal of its protest against the General Services Administration's (GSA) decision to perform janitorial services at the Chet Holifield Federal Building in-house, rather than contracting for these services under solicitation No. GS-09-780-KSC-0065. GSA's decision to perform these services in-house was made after conducting a cost comparison pursuant to the provisions of Office of Management and Budget (OMB) Circular A-76.

We affirm the dismissal.

In the initial protest, Ameriko argued that GSA's decision to retain the function in-house was improper because GSA revised its cost estimate downward after bid opening. We dismissed Ameriko's protest because the agency advised that Ameriko had filed an administrative appeal at GSA challenging the cost estimate and the appeal process had not been exhausted. Where there is an appeal procedure available for review of an agency's cost comparison, we will not review any objections to a cost comparison if the protester has not availed itself of the administrative review process provided to challenge the cost comparison. See Dyneteria, Inc., B-222581.3, Jan. 8, 1987, 87-1 CPD ¶ 30; Sal Femia; Global Constr. & Dev. Corp., B-218161; B-218161.2, Feb. 15, 1985, 85-1 CPD ¶ 206.

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In its reconsideration request, Ameriko argues that GSA's decision to revise the cost estimate constituted adverse agency action on Ameriko's agency-level appeal and that our Office should now review the determination since the final decision to retain the services in-house was made on September 26, 1989. Apparently, Ameriko believes that GSA's revision of the cost estimate and its decision to retain the function in-house represent exhaustion of the administrative review process.

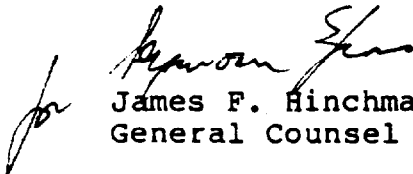
The established standard for reconsideration is that the requesting party must show that our prior decision contain either errors of fact or law or any information not previously considered that warrant its reversal or modification. See 4 C.F.R. § 21.2(a) (1989); Microphor, Inc.--Request for Reconsideration, B-233148.2, Feb. 1, 1989, 89-1 CPD ¶ 103. Here, GSA advises that on August 22, 1989, Ameriko was informed of the tentative decision to retain the function in-house. This letter stated that the government had detected errors in its cost estimate and had made appropriate revisions. Since Ameriko's bid remained higher than the government estimate, even after correcting the errors which Ameriko had alleged, GSA notified Ameriko that if it wanted to challenge the determination, based on the revised cost comparison, it was required to file an administrative appeal with GSA by September 12, 1989. Ameriko did not file a new appeal to GSA by that cut-off date. Since GSA did not receive any challenges to the cost comparison within the allowed time period, the tentative decision to retain the function in-house was made final on September 26. Rather than appealing the revised cost estimate, Ameriko had filed its original protest at the General Accounting Office on August 30, 1989.

Ameriko considered the revised estimate to be adverse agency action on its appeal. However, GSA had actually allowed the revisions argued by Ameriko, and since GSA had also made other revisions which reduced the government estimate, it had provided Ameriko with a new period in which to appeal the cost comparison, since the result had not been changed by the revisions. Ameriko elected not to utilize the available administrative appeal procedure and, thus, failed to exhaust the administrative procedure for challenging the cost comparison. Nothing in the request for reconsideration indicates otherwise; rather Ameriko incorrectly assumes that GSA's decision of September 26 provides the basis for protest. However, this decision merely reflects the fact that Ameriko failed to file the requisite administrative

appeal within the allowable time period. Accordingly, we will not consider Ameriko's protest because it failed to exhaust the available agency administrative review process.

In any event, Ameriko's argument is simply that GSA should have complied with the Federal Acquisition Regulation (FAR) mistake in bid procedures before revising the government's cost estimate. However, a government estimate for an OMB Circular A-76 cost comparison provides a standard against which bids and proposals are evaluated and is not subject to the same rules as bids and proposals. Unlike bids and proposals, the correction of which is governed by the FAR, government estimates for cost comparison purposes are governed by the Circular, which empowers agencies to review and where necessary to correct the government's estimate. Winston Corp.--Request for Reconsideration, B-229735.3, Oct. 4, 1988, 88-2 CPD ¶ 311.

The affirm the dismissal.

  
James F. Hinchman  
General Counsel